

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOE, M.D.,

Plaintiff,

v.

THE BOARD OF REGENTS OF THE
UNIVERSITY OF MICHIGAN, MARIE
LOZON, M.D., and JUSTIN DIMICK,
M.D., Individually,

Defendants.

Case No. 21-cv-13032
Hon. Gershwin Drain
Hon Mag. Judge Curtis Ivy, Jr

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**DEFENDANTS' MOTION TO PERMIT SURREPLY TO
MOVANT CHARLES BLACKWELL'S REPLY TO DEFENDANTS'
REPOSE TO MOVANT'S MOTION TO INTERVENE
AND UNSEAL JUDICIAL RECORDS**

The undersigned certifies that he contacted Saif Kasmikha and Ronald Acho (both counsel for Plaintiff) by email on January 19, 2022 and explained the nature of the motion and its legal basis and requested but did not obtain concurrence in the relief sought.

Defendants, by and through their attorneys, hereby move this Court pursuant to LR 7.1(d)(1)(A), for an order authorizing them to file a Surreply to Movant Charles Blackwell's Reply to Defendants' Response to Movant's Motion To Intervene And Unseal Judicial Records. This Motion rests on the following factual and legal grounds:

1. Local Rule 7.1(d)(1)(A) gives this Court discretion to allow briefing in addition to a motion, response and reply brief.
2. Non-Party and proposed intervenor Charles Blackwell has sought to intervene in the instant case in order to request that this Court unseal certain records which include records protected under Michigan law by a statutory peer review privilege.
3. In a Reply brief, he argues that there is no federal common law privilege of peer review.
4. In their proposed Surreply (attached as Ex. A), Defendants would provide a brief explanation to this Court that, irrespective of federal common law, this Court should recognize the rights and interests afforded by state law in the interests of federal-state comity by keeping such documents sealed.

WHEREFORE, and for the foregoing reasons, Defendants respectfully request that this Honorable Court grant this Motion, and enter an Order permitting Defendants to file the Surreply to Movant Charles Blackwell's Reply to Defendants' Response to Movant's Motion To Intervene And Unseal Judicial Records (a copy of which is attached as Ex. A hereto).

Respectfully submitted,

HALL RENDER KILLIAN HEATH & LYMAN, PC

/s/ Jonathon A. Rabin

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Dated: January 19, 2022

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**BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO PERMIT
SURREPLY TO MOVANT CHARLES BLACKWELL'S REPLY TO
DEFENDANTS' REPOSE TO MOVANT'S MOTION TO
INTERVENE AND UNSEAL JUDICIAL RECORDS**

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CONCISE STATEMENT OF THE ISSUE PRESENTED

1. Should enter an order authorizing Defendants to file a Surreply Brief?

Defendants answer “yes.”

**CONTROLLING OR MOST APPROPRIATE
AUTHORITY FOR RELIEF SOUGHT**

Rules

Local Rule 7.1(d)(1)(a) of the Eastern District of Michigan

ARGUMENT

In support of the instant Motion, Defendants rely upon LR 7.1(d)(1)(A).

Respectfully submitted,

HALL RENDER KILLIAN HEATH & LYMAN, PC

/s/ Jonathon A. Rabin

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2022, I electronically filed the foregoing document and this Certificate of Service with the Clerk of the Court using the ECF system, which will send notification of such filing to attorneys of record at their registered e-mail addresses and will mail the same to Mr. Blackwell to the following address:

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